

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD YOUNG,)	
Plaintiff,)	Civil Action No. 04-407
)	Judge Joy Flowers Conti /
vs.)	Magistrate Judge Lisa Pupo Lenihan
)	
JEFFREY BEARD; CATHERINE C.)	
MCVEY; DAVID GOOD; CAROL SCIRE;)	Doc. No. 116
JAMES META; TOM MORANT and)	
JOAN DELIE; EUGENE GINCHEREAU;)	
EDWARD V. SWIEREZEWSKI;)	
KENNETH LENTZ; and THOMAS)	
KRACZON,)	
Defendants.)	

ORDER

Pending before the Court is a "Motion to Issue Writ of Mandamus/and or Other Extraordinary Relief Addressed to District Judge Joy F. Conti." The undersigned has been designated by Judge Conti to handle all pretrial matters in this action and will therefore rule on the pending motion.

On November 16, 2006 this Court filed a Report and Recommendation recommending the denial of summary judgment for Defendants Good, Meta and Morant, and the grant of summary judgment for Defendants Beard, McVey, Scire and Delie. An Order was entered by the District Court on December 14 adopting that Report and Recommendations the opinion of the court, following consideration of Plaintiff's objections thereto. The case is now in a posture to proceed to trial against the remaining defendants and the Court is in the process of trying to find counsel to

represent the Plaintiff on a *pro bono* basis.

Plaintiff is asking the Court to make it's grant of summary judgment against Defendants Beard, McVey, Scire and Delie final so that Plaintiff may file an appeal. An appeal cannot be filed until the entire case is decided. Once counsel is located willing to represent Plaintiff the Court intends to schedule this case for trial. There is no basis to certify the partial summary judgment ruling for immediate appeal. After the trial of this matter on the remaining Defendants Plaintiff may appeal the summary judgment decision. If Plaintiff wishes to appeal that decision now, then he must stipulate to a dismissal of his lawsuit against the remaining defendants and forgo a trial on those causes of action. Therefore

IT IS HEREBY ORDERED this 12th day of February, 2007, that Plaintiff's Motion at docket number 116 is **DENIED**.

IT IS FURTHER ORDERED that in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(A), and Local Rule 72.1.3, the parties are allowed ten (10) days from the date of service to file an appeal from this order to the District Court. Any opposing party shall have ten (10) days from the date of service of the appeal to respond thereto. Failure to timely file an appeal may constitute a waiver of any appellate rights.



LISA PUPO LENIHAN
United States Magistrate Judge

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